

Board Election 2005

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Some rules for staying on the ballot

Ten steps school board
candidates can take to
combat objections to
their nominating papers

by John B. Murphey

The following information is up-dated from an article appearing in the May-June 1997 issue of Illinois School Board Journal. John B. Murphey is a partner in the Chicago law firm Rosenthal, Murphey & Coblentz. From 1987 to 2000 he was a member of the Board of Education of Evergreen Park School District 124, in Cook County, serving as president from 1997 to 2000.

School board candidates naturally assume that voters will decide their fate on election day. But that's not always the case.

Sometimes lawyers decide the fate of candidates several months before the election. That's when someone finds an error in the candidate's nominating papers and files an objection. If the objection is upheld, the candidate is removed from the ballot.

Objections to school board nominating papers are not often filed. But when they are, the result can be heartbreaking. The sad part is that violations are easily avoided if only the candidate is aware of some simple legal requirements.

Becoming a school board candidate in Illinois is not difficult, but it does require modest effort and attention to a few details. Nominating papers consist of three items:

- a statement of candidacy;
- nominating petitions bearing the required number of signatures

and a notarized signature of the petition circulator;

- a receipt from the county clerk showing that the candidate has filed a statement of economic interests as required by the Illinois Governmental Ethics Act.

These documents — properly completed—must be filed with the school board secretary (or his or her designated representatives) between 78 and 71 days before the election. The candidate may begin circulating nominating petitions for signatures no earlier than 161 days before the election.

However, the fact that these papers are filed and accepted by the board secretary does not necessarily protect the candidate from a challenge that could result in removal from the ballot.

Following are 10 simple rules that will help ensure that you keep your hard-earned place on the ballot, plus some tips to make the job easier. This list is not intended to cover all regulations, but to point out some pitfalls that are easy to overlook and a few shortcuts that are legal.

Rule 1—Use up-to-date State Board of Elections forms. The State Board of Elections makes available

petition forms for each election, updated to comply with any changes in state election law. Candidates should avoid using old forms from prior elections. An outdated form may not comply with the current Election Code requirements and may subject a candidate to removal from the ballot. The school board secretary or county clerk should have current forms available.

Tip: Candidates may use common nicknames. It is proper for a candidate to appear on the ballot using a commonly recognized nickname (Bob, Jan, Rick, Kate, etc.). It is not necessary for the candidate to go through a legal change of name or to re-register in order to take advantage of a commonly recognized nickname. On the other hand, candidates may not use special titles such as "Professor" or "Doctor," implying special professional status, on the petition.

Rule 2 - Know that your circulators are at least 18 years of age and U.S. citizens. Part of the circulator's oath is that he or she is at least 18 years of age and a U.S. citizen. Candidates should resist the urge to have their children circulate the petition sheets. However, candidates
(over)

no longer need to limit their circulators to registered voters of the school district. As a result of recent court decisions, these statutory restrictions on the residence of petition circulators have been eliminated. A candidate may now have friends and relatives circulate petitions even though the circulators do not live in the school district.

Tip: It's perfectly okay to circulate your own nominating petitions. Keep in mind the circulator is not nominating the candidate; the people signing the petition are making the nomination.

Rule 3—Fill in all the blanks. All of the blanks on a nominating petition should be filled in, even if it requires merely a "N/A." If you have any questions about the blanks, consult with legal counsel. All blanks in the upper portion of the petition sheet above the signature blocks should be completed before the petition sheet is circulated.

Tip: To speed the process of collecting signatures, preprint the name of the county on each signature block (if your school district is in a single county). Do the same for the municipality if your petition signers all live in one city or village.

Rule 4—Ensure that the petition circulator personally witnesses all signatures. The circulator is swearing that everyone whose name is on that petition signed it in the presence of the circulator. If a signature is not witnessed by the circulator, it is subject to challenge; if there is a pattern of such activity, the candidate's nominating petition is subject to possible disqualification. Friends who tell your circulator that they will have the sheet signed by some relatives outside the circulator's presence, or who say they will sign "on behalf of" other family members, are not doing the candidate a favor.

Rule 5—Make sure your notary's

certification has not expired. Strange as it might seem, candidates have been removed from the ballot because the person notarizing the circulator's affidavit had let his or her notary lapse.

Rule 6—Number the pages of your petition sheets. Believe it or not, courts in Illinois have removed candidates from the ballot because their nominating petitions were not numbered consecutively at the bottom of the page.

Rule 7—Be complete in your Statement of Candidacy. Make sure you completely fill out your Statement of Candidacy. It is especially important to do so if you have an election in which candidates are running not only for full term but also for the unexpired portion of a term.

Rule 8—Err on the side of too many signatures. Illinois courts have held that a candidate cannot be removed from the ballot as a result of having too many valid signatures. On the other hand, if a candidate collects many signatures but only submits a few more than the mere minimum, and some of those signatures are flawed, the candidate cannot later supplement the nominating petition with other signatures. Candidates are well advised to err on the side of collecting and submitting "too many" signatures. (A candidate for a board of education must submit the signatures of 50 registered voters who reside in the district or 10 percent of the registered voters in the district, whichever is fewer. A board of school directors candidate must have 25 signatures or five percent of the registered voters in the district, whichever is fewer.)

Rule 9—File a fresh Statement of Economic Interest for the election. Candidates who are incumbents may have already filed their Statement of

Economic Interest (commonly referred to as "Ethics Statement") for the current calendar year. In addition, candidates who also work for a public agency or are officials, may have already filed an Ethics Statement for that other position. If you have not saved your Ethics Statement for your particular office, you should file a separate new Ethics Statement for the office you are seeking and use that newly issued receipt as the one to attach to the nominating papers. Keep in mind that this is the one exception to the rule that, once filed, nominating papers cannot be amended. You are permitted to file your Ethics Statement receipt after you file your nominating petition, provided the receipt is filed by the end of the last day for filing.

Tip: As a practical matter, candidates at the April 2005 school board election will have to file the Statement of Economic Interests for 2005 sometime between January 1 and January 25, the last day for filing nominating papers.

Rule 10—Double check everything before filing. Except for the Ethics Statement as discussed above, once nominating papers and the Statement of Candidacy are filed, they cannot be altered, added to, or modified in any fashion. The form should be double-checked to make sure that the heading is correctly completed, the circulator's affidavit is signed and notarized, the pages are numbered consecutively, the Statement of Candidacy is fully completed and signed by the candidate, and that the papers are securely stapled together.

These 10 general rules should help you avoid the more common problems and ensure your election will be decided by the voters and not by objectors and their lawyers. For specific questions, seek legal counsel.